# UNITED STATES PATENT AND TRADEMARK OFFICE

A

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/084,032 | 02/27/2002 | Daniel R. Drake | RSW920010197US1 | 8073 |

7590          07/13/2005

Gerald R. Woods
IBM Corporation T81/503
PO Box 12195
Research Triangle Park, NC   27709

| EXAMINER |
|---|
| MITCHELL, JASON D |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2193 | |

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

| | Application No. | Applicant(s) |
|---|---|---|
| **Office Action Summary** | 10/084,032 | DRAKE ET AL. |
| | Examiner | Art Unit | |
| | Jason Mitchell | 2193 | |

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *27 April 2005*.

2a)☒ This action is **FINAL**.     2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1,2,4-24 and 26-28* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-2, 4-24 and 26-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

## DETAILED ACTION

1.      This action is in response to remarks filed on 4/27/05.

2.      At Applicant's request, claims 3 and 25 have been canceled, claims 1, 8, 10-12,

21, 24 and 28 have been amended, Claims 1-2, 4-24 and 26-28 are pending in this

case.

### *Response to Arguments*

3.      **Applicant's arguments, see pg. 11, filed 4/27/05, with respect to the**

**objection to claim 11 have been fully considered and are persuasive. The**

**objection to claim 11 has been withdrawn.**

4.      **Applicant's arguments, see pg. 11, filed 4/27/05, with respect to the USC**

**101 rejection of claims 21-23 have been fully considered and are persuasive. The**

**rejection of claims 21-23 has been withdrawn.**

5.      **Applicant's arguments, see pg. 11-12, filed 4/27/05, regarding the USC**

**102(b) and 103(a) rejections of claims 1-2, 4-24 and 26-28 have been fully**

**considered but they are not persuasive.**

In the first full paragraph on pg. 12 Applicant states:

> In particular, Lewis does not teach or suggest "a status-to-weight mapping ..." or "a
> parameter-to-routine mapping ..."

Examiner respectfully disagrees. A weighted algorithm, as disclosed by Lewis (col. 6,

lines 15-20), would necessarily have a 'mapping' between the 'status' (e.g. 'processor

speed') and the weights assigned in the algorithm. Further in col. 5, lines 52-57 Lewis

clearly discloses a mapping between parameters ('CPU speed') and routines used to

retrieve values for those parameters ('an algorithm that measures how quickly some

function is performed').

Accordingly the 102(b) rejection of independent claims 1, 21, 24 and 28, and dependent

claims 2, 4-7, 11-16, 19-20, 22-23, and 26-27, are maintained.


In the last paragraph on pg. 12 Applicant states:

> As discussed above, Applicants respectfully submit that Lewis fails to teach
> limitations of their independent claims. Accordingly, dependent Claims 8-10 and 17-
> 18 cannot be rendered obvious by combining Lewis with Albayrak

Applicant's arguments, with respect to the USC 103(a) rejection of claims 8-10 and 17-

18 depend entirely on the persuasiveness of arguments made regarding the USC

102(b) rejection of the parent claims. As these arguments were not found persuasive,

the 103(a) rejection of claims 8-10 and 17-18 are maintained.


### Claim Objections

6.      Applicant's amendments to claim 11 were sufficient to overcome the objection

based on improper dependency. Consequently the objection is withdrawn.

## *Claim Rejections - 35 USC § 101*

Applicant's amendments were sufficient to overcome the rejection of claims 21-23 under

USC 101. consequently the rejection is withdrawn.

## *Claim Rejections - 35 USC § 102*

7.      The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8.      **Claims 1-7, 11-16 and 19-28 are rejected under 35 U.S.C. 102(b) as being**

**anticipated by US 5,761,380 to Lewis et al. (Lewis).**

**Regarding Claim 1:** Lewis discloses a method of improving installation of software

packages, comprising steps of: consulting a status-to-weight mapping that assigns a

weight to each of one or more selected values corresponding to status of each of a

plurality of installation parameters associated with a software product installation (col. 6,

lines 15-16 'weighted algorithm ... processor speed ... are all variables in the

algorithm'); determining a plurality of potential target systems on which the software

product installation might be performed (col. 6, lines 55-59 'changing the installation

from three machines to two machines'); consulting a parameter-to-routine mapping that

identifies a routine to analyze each of the installation parameters at the particular target

systems (col. 5, lines 43-44 'performance calculations'); programmatically interrogating

each of the potential target systems for its status of each of the installation parameters,

using the routine identified for each of the installation parameters (col. 5, lines 54-56

'CPU speed is determined by executing an algorithm'); and computing the suitability

assessment for each of the potential target systems by summing for each of the

potential target systems, the weight assigned to a value corresponding to the status of

each of the installation parameters (col. 6, lines 15-16 'weighted algorithm'; col. 6, lines

36-39 'the planning tool may indicate that performance would be "not acceptable"').

**Regarding Claim 2:** The rejection of claim 1 is incorporated; further, Lewis discloses

invoking the identified routines at each of the potential target systems (col. 7, lines 1-2

'sense the capabilities on other machines').

**Regarding Claim 4:** The rejection of claim 1 is incorporated; further, Lewis discloses

ranking the potential target systems according to their suitability assessments (col. 6,

lines 36-39 'the planning tool may indicate that performance would be "not

acceptable"').

**Regarding Claim 5:** The rejection of claim 4 is incorporated; further, Lewis discloses

providing the ranking to a software installer (col. 6, lines 34-36 'predicted performance

... are presented to the user').

**Regarding Claim 6:** The rejection of claim 5 is incorporated; further, Lewis discloses

the software installer is a person and wherein the providing step comprises the step of

displaying the ranking on a graphical user interface (col. 6, lines 34-36 'predicted

performance ... are presented to the user').

**Regarding Claim 7:** The rejection of claim 5 is incorporated; further, Lewis discloses

the software installer is a programmatic process (col. 10, lines 28-30 'The information

sensed ... is used by the expert system to arrive at the best installation plan') and wherein the providing step further comprises the step of supplying the ranking to the programmatic process in a machine-readable form (col. 10, lines 28-30 'The information sensed ... is used by the expert system to arrive at the best installation plan').

**Regarding Claim 11:** The rejection of claim 10 is incorporated; further Lewis discloses the mappings are part of an installation object defined for the software product installation (col. 5, lines 32-34 'the planning tool is ... part of the software').

**Regarding Claim 12:** The rejection of claim 1 is incorporated; further Lewis discloses the step of transmitting a message to each of the potential target systems (col. 7, lines 1-2 'sense the capabilities on other machines'), wherein the message specifies the identified routines (col. 5, lines 54-56 'CPU speed is determined by executing an algorithm').

**Regarding Claim 13:** The rejection of claim 12 is incorporated; further Lewis discloses the message is to be processed by an installation agent residing on each of the potential target systems (col. 5, lines 37-40 'the planning tool could come as a standalone application').

**Regarding Claim 14:** The rejection of claim 12 is incorporated; further Lewis inherently discloses receiving the transmitted message at a particular one of the potential target systems; invoking the identified routines from the received message, thereby determining the status of each of the installation parameters for this particular potential target system; and returning the status of each of the installation parameters in a response message. When sensing the capabilities on other machines (col. 7, lines 1-2)

it is necessary to send a message to that other machine and receive a response back

after the appropriate routine has been executed (i.e. col. 5, lines 54-56 'CPU speed is

determined by executing an algorithm').

**Regarding Claim 15:** The rejection of claim 5 is incorporated; further Lewis discloses

using the provided ranking, by the software installer, to select one or more of the

potential target systems as one or more actual target systems for the software product

installation (col. 10, lines 28-30 'The information sensed ... is used by the expert system

to arrive at the best installation plan').

**Regarding Claim 16:** The rejection of claim 15 is incorporated; further Lewis discloses

distributing a software installation package for the software product installation to each

of the selected actual target systems (col. 8, lines 19-21 'write to diskette the

components to be installed'); and performing the software product installation on the

selected actual target systems (col. 8, lines 22-24 'the installation diskette ... is used to

install the components').

**Regarding Claim 19:** The rejection of claim 16 is incorporated; further Lewis discloses

configuring the software installation package prior to operation of the distributing step

(col. 8, lines 14-17 'The installation process would be told ... how to distribute the

components').

**Regarding Claim 20:** The rejection of claim 19 is incorporated; further Lewis discloses

the configuring step further comprises reflecting the status for at least one of the

installation parameters in the configured software installation package (col. 8, lines 14-

17 'how to distribute the components across that number of machines').

**Regarding Claims 21:** Lewis discloses means for determining a plurality of potential

target systems on which the software product installation might be performed (col. 6,

lines 55-59 'changing the installation from three machines to two machines'); means for

determining a plurality of installation parameters associated with the software product

installation (col. 6, lines 15-20, processor speed ... are all variables in the algorithm');

means for consulting a parameter-to-routine mapping that specifies, for each of the

installation parameters, a remotely-executable routine for determining a status of the

installation parameter at the potential target systems (col. 5, lines 54-56 'CPU speed is

determined by executing an algorithm'); means for programmatically requesting each of

the potential target systems to execute the remotely-executable routine specified for

each of the installation parameters and return the determined status thereof (col. 5,

lines 54-56 'CPU speed is determined by executing an algorithm'); means for consulting

a status-to-weight mapping that specifies, for each of one or more potential values of

the determined status of each of the installation parameters, a weight value associated

therewith (col. 6, lines 15-16 'weighted algorithm'); and means for computing a

suitability assessment for each of the potential target systems the weight value

associated with the determined status of each of the installation parameters , (col. 6,

lines 36-39 'the planning tool may indicate that performance would be "not

acceptable"').

**Regarding Claim 22 and 26:** The rejections of claims 21 and 24 are incorporated;

further, Lewis discloses means for ranking the potential target systems according to

their suitability assessments (col. 6, lines 36-39 'the planning tool may indicate that

performance would be "not acceptable'").

**Regarding Claim 23:** The rejection of claim 22 is incorporated; further, Lewis discloses

means for providing the ranking to a software installer (col. 6, lines 34-36 'predicted

performance ... are presented to the user').

**Regarding Claims 24:** Lewis discloses means for determining a plurality of potential

target systems on which the software product installation might be performed (col. 6,

lines 55-59 'changing the installation from three machines to two machines'); means for

programmatically interrogating each of the potential target systems for its status of each

of a plurality of installation parameters associated with a software product installation

(col. 5, lines 43-44 'performance calculations'), by invoking, at each of the potential

target systems, a routine which is identified in a parameter-to-routine mapping for

analyzing that installation parameter (col. 5, lines 54-56 'CPU speed is determined by

executing an algorithm'); and means for computing a suitability assessment for each of

the potential target systems by summing, for each of the installation parameters, a

weight associated with the status of the installation parameter for the potential target

system, wherein the weight is determined from a status-to-weight mapping that

associates weights with each of one or more selected values of the status (col. 6, lines

15-16 'weighted algorithm'; col. 6, lines 36-39 'the planning tool may indicate that

performance would be "not acceptable'").

**Regarding Claim 27:** The rejection of claim 24 is incorporated; further, Lewis discloses

the potential target systems are remotely located (col. 2, lines 24-26 'installation of

components of the network application can be remotely from the local machine').

**Regarding Claim 28:** Lewis discloses a method of improving installation of software

packages, comprising steps of: consulting a status-to-weight mapping (col. 6, lines 15-

16 'weighted algorithm ... processor speed ... are all variables in the algorithm") that

assigns a weight to each of one or more selected values corresponding to status of

each of a plurality of installation parameters associated with installation of a plurality of

software products (col. 5, lines 37-40 'the planning tool could come as a standalone

application which has knowledge of ... a particular set of applications'); determining a

plurality of potential target systems on which the software product installation might be

performed (col. 6, lines 55-59 'changing the installation from three machines to two

machines'); consulting a parameter-to-routine mapping that identifies a routine to

analyze each of the installation parameters at the potential target systems(col. 5, lines

43-44 'performance calculations'; col. 5, lines 54-56 'CPU speed is determined by

executing an algorithm'); programmatically interrogating each of the potential target

systems for its status of each of the installation parameters, using the routine identified

for each of the installation parameters; (col. 5, lines 45-48 'The planning tool senses the

hardware capacity'); and computing a suitability assessment for each of the potential

target systems by summing for each of the potential target systems, the weight

assigned to a value corresponding to  the status of each of the installation parameters

(col. 6, lines 15-16 'weighted algorithm'; col. 6, lines 36-39 'the planning tool may

indicate that performance would be "not acceptable"').

## Claim Rejections - 35 USC § 103

9.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

***10.***     **Claims 8-10 and 17-18 are rejected under 35 U.S.C. 103(a) as being**

**unpatentable over US 5,761,380 to Lewis et al. (Lewis) in view of US 6,662,163 to**

**Albayrak et al. (Albayrak).**

**Regarding Claim 8:** The rejection of claim 1 is incorporated; further Lewis does not

disclose the status to weight mapping is specified using a structured markup language.

Albayrak teaches the use of XML documents (col. 8, lines 43-44 'XML-based

documents') in an analogous art for the purpose of storing configuration data (col. 8,

lines 43-44 'configuration data files are stored as XML-based documents').

It would have been obvious to a person of ordinary skill in the art at the time of the

invention to store the data regarding the selected values in an XML file as taught by

Albayrak (col. 8, lines 43-44) because XML is a technology well recognized in the art for

the purpose of holding data (col. 2, lines 13-18 'Means for representing and processing

information are also becoming standard. In particular, the XML').

**Regarding Claim 9:** The rejection of claim 8 is incorporated; further, Lewis does not

disclose the structured markup language is Extensible Markup Language ("XML") or a

derivative thereof.

Albayrak teaches the use of XML documents (col. 8, lines 43-44 'XML-based

documents') in an analogous art for the purpose of storing configuration data (col. 8,

lines 43-44 'configuration data files are stored as XML-based documents').

It would have been obvious to a person of ordinary skill in the art at the time of the

invention to store the data regarding the selected values in an XML file as taught by

Albayrak (col. 8, lines 43-44) because XML is a technology well recognized in the art for

the purpose of holding data (col. 2, lines 13-18 'Means for representing and processing

information are also becoming standard. In particular, the XML').

**Regarding Claim 10:** The rejection of claim 1 is incorporated; further, Lewis does not

disclose the status-to-weight mapping and the parameter-to-routine mapping are

specified using a structured markup language.

Albayrak teaches the use of XML documents (col. 8, lines 43-44 'XML-based

documents') in an analogous art for the purpose of storing configuration data (col. 8,

lines 43-44 'configuration data files are stored as XML-based documents').

It would have been obvious to a person of ordinary skill in the art at the time of the

invention to store the data regarding the selected values in an XML file as taught by

Albayrak (col. 8, lines 43-44) because XML is a technology well recognized in the art for

the purpose of holding data (col. 2, lines 13-18 'Means for representing and processing

information are also becoming standard. In particular, the XML').

**Regarding Claim 17:** The rejection of claim 12 is incorporated; further Lewis does not

disclose the specified routines in the transmitted message are encoded using a

structured markup language.

Albayrak teaches the use of XML documents (col. 8, lines 43-44 'XML-based

documents') in an analogous art for the purpose of storing configuration data (col. 8,

lines 43-44 'configuration data files are stored as XML-based documents').

It would have been obvious to a person of ordinary skill in the art at the time of the

invention to pass messages in XML format as taught by Albayrak (col. 8, lines 43-44)

because XML was a technology well recognized in the art for the purpose of processing

data (col. 2, lines 13-18 'Means for representing and processing information are also

becoming standard. In particular, the XML').

**Regarding Claim 18:** The rejection of claim 14 is incorporated; further Lewis does not

disclose the status of each of the installation parameters in the response message is

encoded using a structured markup language.

Albayrak teaches the use of XML documents (col. 8, lines 43-44 'XML-based

documents') in an analogous art for the purpose of storing configuration data (col. 8,

lines 43-44 'configuration data files are stored as XML-based documents').

It would have been obvious to a person of ordinary skill in the art at the time of the

invention to pass messages in XML format as taught by Albayrak (col. 8, lines 43-44)

because XML was a technology well recognized in the art for the purpose of processing

data (col. 2, lines 13-18 'Means for representing and processing information are also

becoming standard. In particular, the XML').

## *Conclusion*

11.    **THIS ACTION IS MADE FINAL.**  Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action.  In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action.  In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jason Mitchell whose telephone number is (571) 272-

3728.  The examiner can normally be reached on Monday-Thursday and alternate

Fridays 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Kakali Chaki can be reached on (571) 272-3719.  The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Jason Mitchell
6/28/05

KAKALI CHAKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100